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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,007	01/18/2006	Anne-Marie Pinel	34930158PUS1	7203
2292	7590	12/06/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			YOUNG, HUGH PARKER	
			ART UNIT	PAPER NUMBER
			1654	

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/565,007	Applicant(s) PINEL ET AL.	
	Examiner Hugh P. Young	Art Unit 1654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 12-22 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the first Office action on application 10,565,007. There are 22 claims pending, which are subject to restriction.

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- I. Claims 12, 16, and 17 drawn to a method of treating alopecia with a product comprising peptides of Formula 12(I).
- II. Claim 12, 13, 14, 16 and 17, drawn to a method of treating alopecia with a product comprising peptides of Formulas 12(II) and 12(III).
- III. Claims 12, 13, 14, 15, 16, 19 and 20 drawn to a method of treating alopecia with a topical product comprising peptides of Formula 12(II) and 12(III) and peptides of SEQ ID NOS: 11-14.
- IV. 12, 13, 14, 15, 16, 21 and 22 drawn to a method of treating alopecia with a dietary product comprising peptides of Formula 12(II) and 12(III) and peptides of SEQ ID NOS: 11-14.
- V. Claims 12, 13, 14, 15, 17, 19 and 20 drawn to a method of treating alopecia with a topical product comprising peptides of Formula 12(II) and peptides of SEQ ID NOS: 5-10.

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- VI. 12, 13, 14, 15, 17, 21 and 22 drawn to a method of treating alopecia with a dietary product comprising peptides of Formula 12(II) and peptides of SEQ ID NOS: 5-10.
- VII. Claims 12, and 17-20 drawn to a method of treating alopecia with a topical product comprising peptides of Formula 12(I) and peptides of SEQ ID NOS: 15-16.
- VIII. Claims 12, and 17-20 drawn to a method of treating alopecia with a topical product comprising peptides of Formula 12(I) and peptides of SEQ ID NOS: 17-19.
- VII. Claims 12, 13, 14, and 17-20 drawn to a method of treating alopecia with a topical product comprising peptides of Formula 12(II) and peptides of SEQ ID NOS: 15-16.
- VIII. Claims 12, 13, 14, and 17-20 drawn to a method of treating alopecia with a topical product comprising peptides of Formula 12(II) and peptides of SEQ ID NOS: 17-19.
- VII. Claims 12, 17, 18 and 21-22 drawn to a method of treating alopecia with a dietary product comprising peptides of Formula 12(I) and peptides of SEQ ID NOS: 15-16.
- VIII. Claims 12, 17, 18 and 21-22 drawn to a method of treating alopecia with a dietary product comprising peptides of Formula 12(I) and peptides of SEQ ID NOS: 17-19.

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VII. Claims 12, 13, 14, 17, 18 and 21-22 drawn to a method of treating alopecia with a dietary product comprising peptides of Formula 12(II) and peptides of SEQ ID NOS: 15-16.

VIII. Claims 12, 13, 14, 17, 18 and 21-22 drawn to a method of treating alopecia with a dietary product comprising peptides of Formula 12(II) and peptides of SEQ ID NOS: 17-19.

2. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Peptides of SEQ ID NOS: 1 – 2

Peptides of SEQ ID NOS: 3 – 4

Peptides of SEQ ID NOS: 5 – 10

Peptides of SEQ ID NOS: 11 – 14

The radicals of "A" corresponding to Formula 12(III)

The N-terminal component "W"

The C-terminal component "Z"

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims

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subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

3. The claims are deemed to correspond to the species listed above in the following manner:

SEQ ID NOS: 1 – 4 are claimed in Claim 12 and dependent Claims 13-22

SEQ ID NOS: 5 – 14 are claimed in Claim 15

“A” residues are claimed in Claims 12, 13, 14, 15 and 18 and dependent Claims 13-22

“W” residues are claimed in Claim 18 and dependent Claims 20-22

“Z” residues are claimed in Claim 18 and dependent Claims 20-22

The following claim(s) are generic: 12 - 22

4. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The invention as claimed is not a contribution over the art because the peptide sequences, particularly SEQ ID NO: 1, Gly-His-Lys (GHK) has been publicly disclosed in an international patent application document, WO97/018235, on May 22, 1997. In addition, the tripeptide glycyl

hystidyl lysine is also claimed as an agent for stimulating hair growth in issued US Patent No. 5,470,876, (November 28, 1995), claim 3, column 4.

Inventorship

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Rejoinder

6. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not

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commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Conclusion

7. No claims are allowed.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh P. Young whose telephone number is (571)-272-4988. The examiner can normally be reached on 8:00 AM - 5:00 PM.

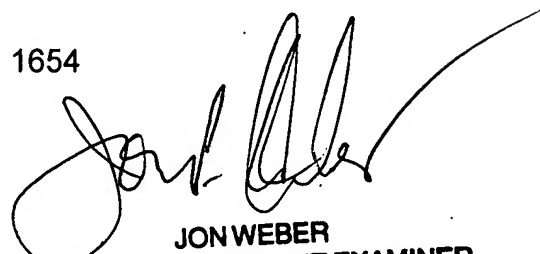
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hugh P. Young Ph.D.

GAU 1654



JON WEBER
SUPERVISORY PATENT EXAMINER